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Challenge to Enforce Food Safety Law and Regulation in Indonesia

Stephanie Putri

University of Wollongong, sap993@uowmail.edu.au

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Abstract

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Challenge To Enforce Food Safety Law and Regulation in Indonesia

Stephanie Apsari Putri

Faculty of Law, Humanity and The Arts, University of Wollongong, 2522, New South Wales, Australia
Email: sa.putri@gmail.com

Abstract: Law enforcement has always been problematic in Indonesia and has been challenging for government agencies, including the enforcement of food safety regulation. Indonesian government has promulgated several regulations on food safety such as Act 18/2012 on Food and Government Regulation No. 28 of 2004 on Food Safety, Quality and Nutrition. Also, the government has established the National Agency for Drug and Food Control to monitor and supervise the food sector. However, food safety offense such as food adulteration is still easily found in almost every area in Indonesia and causing serious illnesses and economic losses. In addressing food safety in Indonesia, this study aims to analyze the difficulties facing to enforce the law and regulations of food safety in Indonesia. This study investigates the factors which negatively influence the attempt to achieve food safety. With library research, the legislation, legal theory, and other secondary data will be analyzed to then crystallized into conclusions as the characteristics of doctrinal research. This study concludes there are two categories of factors affecting the enforcement of food safety law and regulations namely internal and external factors.

Keywords: Food Safety, Food Adulteration, Law Enforcement, Indonesia

1. Introduction

Food safety is a global issue in recent years and one of the most important issues of food safety in Indonesia is food adulteration[1]. Food adulteration usually emerges when there is an issue regarding physical availability of food while the market demand increases (Manning, Mei Soon). Food adulteration arises negative impacts to Indonesia. The deadly effects of unsafe food emerge public health issues, namely poisoning incidents, which potentially lead to death. Moreover, low quality of food affects the competitiveness of local food in international trade which can cause economic problem in Indonesia [2]. The state has paid attention to this issue by establishing variety of law and regulations on food safety, including food adulteration. Act 18/2012 on Food regulates the requirements to produce food such as safe, nutritious, qualified and affordable. In 2004, the government also promulgated the Government Regulation 28/2004 on Food Safety, Quality and Nutrition. In addition, National Agency for Drug and Food Control (NADFC) has been formed to ensure food safety in Indonesia. NADFC is responsible to supervise and control food chain from production, distribution to consumption.

Despite the regulation and special state agency for food safety assurance, food adulteration and its harmful effects still can easily be found in most area in Indonesia. This article tries to evaluate the food safety management in Indonesia, especially the management of food adulteration. The challenges and the obstacles to ensure food safety will be identified to find solutions to achieve food safety in Indonesia.



2. Methodology

This is a doctrinal research which legal rules, principles, concepts and doctrines were examined and analysed critically. Critical review of legislations, decisional processes, and the underlying policy were concerned [3]. This research used secondary data as the main data such as legal materials that are authoritative, i.e. data obtained from valid documents such as law and regulation, book, journal article, and news.

3. Findings

3.1 Food Safety System in Indonesia

Regulation is the form of government intervention to manage the society. Regulation aims to reduce fraudulence, misrepresentation and unfair practices [4]. Public Interest Theory justifies that the government intervention through regulation can fix the problem in the society. Regulations are designed to control prices, enforce safety standards and to prevent accidents [5]. Law is not just a system of rules, however it is a system that serves various purposes, such as to construct the society which the actions are administrated by institutions [6]. In the context of food safety, the aim of law is to protect people from dangerous behavior [7].

In Indonesia, food safety is regulated in several law and regulations namely Act 18/2012 on Food which mandates that food must meet some criteria or requirements. Every stage in food chain must meet the standard so that food can be safe to consume. Food adulteration as one of the most alarming food safety issues in Indonesia also has been regulated in the same Act where food production should not use prohibited materials. However, harmful additives in food production is still commonly used in food manufacturing in Indonesia. This regulation stipulates the requirements of food production i.e. the implementation of good agricultural practices, good fresh food production practices, good manufacturing practices, good distribution practices, good retailing practices, good ready-to-eat food production practices in the whole food chain. Also, this regulation specifies the authorities which are taking part in food safety management in Indonesia such as Ministry of Agriculture, Ministry of Fisheries and Marine Affairs, Ministry of Forestry, Ministry of Industry, Ministry of Trade, Ministry of Health, NADFC, and also local governments.

As time goes by, the knowledge has improved, including in food manufacturing. People are using food additives to produce foods. Food additive is a substance which is purposely added into the food to artificially modify its appearance and enhance the taste, texture, and the storage life [8]. There is a regulation which is specifically stipulating the permitted types of additive namely Minister Health Regulation 33/2012 on Food Additives. This regulation not only defines the types of permitted additive, but also defines the standard of permitted amount of the substances. To thoroughly assure food safety in Indonesia, government formed a state agency named National Agency for Drug and Food Control (NADFC). NADFC aims to protect public health and support fair trade. This agency has a special division to control food safety issues- Deputy for Food Safety and Hazardous Substance Control. In this division, there are 5 parts working to enhance food safety in Indonesia i.e. Food Safety Evaluation; Food Products Standardization; Food Products Inspection and Certification; Surveillance on Food Safety Extension; and Products and Hazardous Substance Control.

In food control system, all stages of production, distribution and consumption are regulated by the law. In Indonesia, food safety system is divided into three important aspects namely (i) government control sub-system such as establishment of standards and pre- market and post market control. Pre-market control is done by evaluating the safety of food products to ensure the compliance with safety and quality standards.

If the food product is found safe and meets the standard, the producer will receive register approval number and the product becomes legal to be sold. While post market control is conducted towards distributed products, (ii) producer control sub-system such as Good Manufacturing Practices (GMP), Hazard Analysis and Critical Control Points (HACCP), and Halal Assurance System, (iii) consumer control sub-system such as consumer empowerment and social punishment [9]. Based on the Guidelines for Strengthening National Food Safety Programs from World Health Organization (WHO), Indonesia adopted the Integrated Food Safety System (IFSS) to reach equivalence to the international food safety standards. IFSS introduced three types of networks which are working together according to their own duties and functions.

The first one is Food Intelligence Network which was established to collect and evaluate the data of food-borne illnesses. The second is Food Control Network which is a network which works to improve the management of food safety. This network consists of a range of food safety authorities namely government, agencies, ministries such as Ministry of Industry, Ministry of Trade, Ministry of Health, and other food safety authorities. The third is Food Promotion Network which performs the risk communication by disseminating risk assessment results and developing food safety promotion to educate the society by utilizing public mass and trainings. According to Government Regulation 28/2004 on Food Safety, Quality and Nutrition, everyone is prohibited from distributing contaminated food. Contaminated foods are defined as containing toxic, harmful, or substances that could harm human health or life; contains contaminants that exceed the maximum limit set; containing prohibited substances used in food production activities or processes; containing material that is dirty, rotten, rancid, decomposes, or contains diseased or plant-derived or animal or vegetable material; produced in a prohibited manner; and / or has expired.

According to Article 94 (2) of Act 18/2012 on Food, everyone who violate the provisions concerning the fulfillment of food quality standards and contaminated food as mentioned above are subject to administrative sanctions i.e. fine; suspension of activities, production, and / or distribution; withdrawal of Food from circulation by producer; compensation; and / or revocation of permission. In addition, Act 8/1999 on Consumer Protection regulates that producer is prohibited from producing and / or trading goods and / or services that do not meet or not in accordance with the required standards and the provisions of legislation. Violating the provisions of the Consumer Protection Law will be punished with imprisonment for a maximum of 5 (five) years or a maximum fine of 2 billion rupiahs (approximately AUD 200.000). Despite the establishment of regulatory framework and food safety agency in Indonesia, the violations of food safety still can easily be found in most area in Indonesia. This situation implies that the enforcement of the regulatory framework is not effective.

3.2 Food Adulteration and Its Harmful Effects

Food safety is a global issue. However, the food safety issues faced by developed countries and developing are different. Developed countries are facing problems regarding the application of new technologies in food manufacturing, while in developing countries, food safety issues encompass the contamination of microbial and chemical substances which affect the quality of food products [10]. Developing countries are facing heavier burden of food safety issues than in developed countries (Lamuka, 2014).

Basically, food comes from biological sources and water, so it is perishable because of the internal and external factors. Therefore, food processing and preservation are done to make food last longer. Food processing and preservation involve the use of food additives to modify the appearance and to make it lasts longer[8].

Food adulteration is generally done in the motive of economy, namely business competition. The wrongdoers maximize their profit by minimizing the production cost. In addition, consumers in Indonesia are more likely to choose cheap food. Unfortunately, cheap generally means low quality. Economic cheat may result in problem of safety or nutritional value of the food products[11].

In Indonesia, there are many incidents of food adulteration. For instance, on May 2015 the police of Magetan, East Java arrested a food producer which produced substandard meat product. The meat was processed from cow carcass which firstly has been given a lot of water to make the mass increasing [12]. Another food adulteration case is the the adulteration of chili sauce which was preserved using exceeding chemical preservation (Benzoate) in Tangerang [13]. Also in May 2017 in Blitar, East Java, the police raided 45 sacks of rice which were produced using bleaching[14]. There are many other food adulteration cases which potentially harm the people. Adulterated food is not only produced domestically, it is reported that there were many illegal and unsafe foods came from other countries.

Food adulteration leads to harmful effects toward public health. During 2015, there were 61 food poisoning incidents with 2251 people injured and 3 people died (NADFC). This poisoning outbreak resulted in economic loss where in 2013 the food poisoning outbreaks led to economic loss approximately US\$78 million [15]. Moreover, food adulteration also results in further economic loss. The low quality of local food from Indonesia caused rejection from the international market. For instance, during 2015 there were 38 cases of export rejection in several countries due to the microbial and chemical contamination[16].

3.3 Challenges and Obstacle to Enforce Food Safety Law and Regulation

Food adulteration and its harmful effects in Indonesia prove that the enforcement of food safety law and regulation is ineffective. This is caused by several factors which hamper the ensuring of food safety in Indonesia. The factors can be categorized into two types, namely internal and external factors.

(i) Internal Factors

a. Regulation Itself

In line with the development of science and technology in the field of food, food industry is also growing and resulted in increasing the number and types of food products produced both domestic and imported. This has led to many types of food products being produced, while basic definitions and characteristics have not been set in the rules on food categories [16].

Another issue regarding the regulation is the lack of power of NADFC. NADFC does not have the power to enforce the law. All this time, NADFC is really depending on the police because the power of law enforcement is in the police. The role of NADFC should not only be a companion during the food industry raids. For that reason, it is necessary to do law reform to authorize NADFC to maximize its performance.

In addition, the enforcement of sanctions towards the offenders is still ineffective. In 2015, there were 277 cases which were followed up with pro-Justitia. However, only 52 cases (18.77%) which have received the court rulings and generally the court decision on the case do not provide deterrent effect.

b. Human Resources

In 2015, NADFC had totally 3.907 staffs in all area in Indonesia. According to the workload analysis, NADFC should be equipped with 5008 staffs for all area in Indonesia [16]. In 2016, the lack number of NADFC staffs increased to 3.101 staffs calculated based on the workload analysis (NADFC, 2016).

c. Working Facilities

To work optimally, NADFC requires adequate facilities and infrastructure. For example, for a laboratory building, it required a standardized building for the results of valid data. In 2014, there is one unaccredited laboratory, i.e. laboratory at NADFC in Manokwari. This is caused by the limited internal factors, namely the competence of human resources, the availability of facilities; and the external factor, namely the limited availability of conformity assessment resources[16].

(ii) External Factors

a. Purchasing Power

Economic growth shows the growth of goods and services production in an economic area and within a certain time interval. Year after year the economy grew compared to the previous year. For example, in 2013, the per capita income of the community is 36.6 million rupiahs every year. Whereas in 2014, the per capita income of the community rose by 14.52% to Rp.41.8 million.

The increase in revenues does not necessarily reflect changes in people's purchasing power because some of the revenue changes are due to inflation[16]. In other words, per capita income is rising rapidly accompanied by rapid increases in living expenses as well. This is what causes the weak purchasing power of the people against quality products, including for food products. For the poor, the quality of food is not the main thing they are looking for in consuming food, as they put more emphasis on satiety and cheap food prices.

b. Public Awareness

For the middle to lower class society, quality is not important. The satiety of cheap food satisfies them more. Therefore, it is difficult to identify the causes of food poisoning that occur in the community.

One of the problems in the prevention and investment of food poisoning is the unknown food poisoning causes. This is because the epidemiological data obtained from the field is incomplete, the sample is not representative, the test results of the negative sample, or wrongly established hypothesis. People in general are difficult to identify or remember what foods they consume that potentially cause poisoning. Whereas the completeness of the epidemiological data of each victim, especially the time of exposure, prominent symptoms, accompanying symptoms, specific symptoms, incubation period and the food consumed is necessary to determine the hypothesis of food poisoning[16].

c. Lack of Awareness and Knowledge of Producers

Food producers in Indonesia tend to accentuate the profit without considering the danger towards the consumers. The lack of knowledge of the food producers can also become the reason why food adulteration cases occurred.

The number of house-hold industry is high in Indonesia. Even, the government also encourages people to build independent businesses to help the household economy, proven by not-strict license permit. Unlicensed households are hard to monitor by NADFC, as this causes the food product failing to comply the standards. For example, in 2014 NADFC surveyed ice and ice manufacturers in five provinces in Indonesia (Aceh province, DKI Jakarta, East Java and South Sulawesi). From the survey was found that at the producer level, 91% did not comply the sanitation requirements in their production activities 16].

4. Conclusion

Although there are already complete regulations governing food safety issues particularly food adulteration, crimes against food security can still be found easily in Indonesia. This is evidenced by the high rates of poisoning and disease caused by contaminated food. High poisoning rates also cause economic losses. From this research, it is known that the obstacles faced in the enforcement of food safety law in Indonesia are categorized into two namely internal and external factors. Internal factors consist of the regulation itself, human resources, and facilities. While the external factors are purchasing power of the people, public awareness, and lack of knowledge and awareness of food producers. If food safety is assured, then the quality of people in Indonesia will increase. Besides, if food safety in Indonesia is maintained, food product in Indonesia can compete in international market.

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